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SUBJECT: UN DUCKS TOUGH QUESTIONS ON SUDANESE ELECTIONS

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1. Summary: During the first Electoral Assistance Group (EAG) meeting after the ICC's March 4 arrest warrant for Government of National Unity (GNU) President Al-Bashir, the UN spoke at length about meager and unimpressive electoral preparations made by the National Electoral Commission (NEC), but mentioned only briefly the effect the ICC warrant and the INGO expulsions might have on elections in Sudan. USG officials asked whether the UN has developed red lines for providing electoral assistance to the Government of National Unity (GNU) and Government of South Sudan (GoSS) in the event of a "snap" election. According to UNMIS Chief Electoral Affairs Officer Ray Kennedy, policy decisions on UN support will be made by the UN Security Council and he was reluctant to discuss the potential effects of the post-ICC environment, including the INGO expulsions, on donor electoral support. End Summary.

#### UNMIS UPDATE OF NEC PROGRESS

2. UNMIS Chief Electoral Affairs Officer Ray Kennedy told electoral donors on 19 March that the National Electoral Commission (NEC) is still "struggling to reach operational capacity." (ref F) The Commission has not yet set up the 25 state-level and Southern Sudan high electoral commissions -- one of its highest priorities when it was first established. Kennedy said that the committees might be named by the end of March. Kennedy noted that the NEC is scheduled to move to its new office location soon, and the move, which puts the NEC much closer to the UNMIS compound, should make UN-NEC coordination easier. He also said that the NEC has announced and designated Department heads who will preside over various electoral functions (ref A).

3. (SBU) According to Kennedy, the NEC appears not to be taking any policy decisions yet. He flagged the determination of the scope of power of the Southern Sudan High Electoral Committee as a potential North/South flashpoint that might hold up elections if the NEC and the Government of Southern Sudan (GoSS) cannot agree. Kennedy informed donors that the UN "has not yet heard" from the NEC on a specific timeline for elections, but said that the NEC wants to hold elections in 2009, a general timeframe that the UN is "taking seriously." (refs D and E) The UNMIS Elections Chief stated that the NEC has discussed conducting voter registration in May/June or July/August. According to Kennedy, UNMIS deems May/June as unfeasible due to the amount of time it will take to procure voter registration materials, but said there is "some reasonable possibility" that voter registration could occur in July/August;

particularly if the NEC could procure materials faster than the UN. Were registration conducted in July/August, the voter list could be posted in early September, finalized in late September and elections could occur by the end of 2009. (Note: The electoral law requires that voter registration be completed three months before elections occur. End Note.)

#### CRITICAL ISSUES TO TRACK

14. (SBU) According to Kennedy, there are a number of "critical issues" regarding elections to track, such as the roll-out of census results, the ratification of reformed legislation on press/media and national security, and the sentiment about election participation in Darfur. Kennedy announced that at the next census technical working group (TWG) scheduled for 26 March, UNFPA expects the Central Bureau of Statistics (CBS) and the Southern Sudan Census Commission (SSCCSE) to agree to send the final census figures to the Population Census Council (PCC) for endorsement. [Note: USG officials understand from SSCCSE contacts that the CBS has refused to participate in a jointly-developed census results verification process. The SSCCSE is documenting its concerns with the census results and the CBS's verification process. Results of the Census TWG will be reported septel. End Note.]

15. (SBU) The UNMIS Electoral Chief said that the UN is concerned that large areas of turbulent Southern Kordofan were uncoded due to an SPLM boycott in that state during census enumeration. Kennedy said that UNMIS Civil Affairs and UNFPA were jointly working the issue to see how the undercount could be resolved. He said that the undercount could result in Southern Kordofan's loss of three geographical constituency seats. Kennedy did not mention an obvious undercount in Darfur. According to Kennedy, the NEC expects to

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receive census results in early April. [Note: this is assuming the CBS and SSCCSE agree on the census priority results. End note.]

16. (SBU) Kennedy reported that there has been "intensive discussion" between the NCP and the SPLM on pending legislation on media/press and national security (ref C). He said there has been "some progress" on the press/media law, but that there continue to be big sticking points between the two partners on a reformed national security law. Kennedy added that during his recent trip to El Fasher, North Darfur, UNAMID officials were pessimistic about IDPs (who are over 2 million people in Darfur, not all of voting age) and rebel movements participating in upcoming elections. Kennedy announced rather unconvincingly to donors that "this could change in very short order, because of the way things happen here." He stated that UNMIS Electoral Affairs now has an electoral advisor based in El Fasher.

#### UPDATE ON UN ELECTIONS PROGRESS

17. (SBU) Kennedy said that UNHQ NY is reluctant, for security reasons, to send a team to Sudan to conduct an electoral needs assessment. They have asked Kennedy to conduct the assessment and report back to UNHQ "over email" with the results. The UNMIS Electoral Chief said he is pushing back on this issue and still is requesting a team from NY to visit Sudan in mid-April.

18. (SBU) UNDP officials asked donors to pledge more money to its recently-amended Elections Project Implementation Plan (PIP), which will require USD 26 million in funding. So far, donor countries have pledged USD 13 million to PIP activities, but UNDP only has USD 4.5 million of this funding in hand. UNDP officials said that the NEC has not yet signed the PIP (i.e. - authorized UNDP's electoral programs), but they expected it would do so the week of March 22. [Note: The UNDP's amended PIP has four assistance areas: providing support to the NEC, civic and voter education, media training and monitoring, and domestic observation. End note.] Kennedy explicitly asked whether there were any donors willing to commit to provide additional funds; the Germans and Dutch indicated some willingness without specifics, while the UK stated that the PIP must be signed before they will commit more funds. UNDP noted that some activities can move forward with funds currently in hand, but 'big ticket' items such as equipment and Requests for Proposals cannot

move without more funding commitments.

#### A CALL TO FOCUS ON REFERENDUM PREPARATION

19. (SBU) Kennedy told donors that preparations for the 2011 referendum on southern Sudan self-determination "should be a high priority for all of us now." He explained that the southern Sudan referendum law will be two years late come July 2009 (ref C). The CPA calls for referendum registration to be completed three months before the referendum vote (January 2011), which would put the registration squarely in the rainy season. Realistically, said Kennedy, referendum registration needs to happen in the first quarter of 2010. Passing a referendum law and establishing a referendum commission are "more than urgent," he said.

110. (SBU) Kennedy explained that the NCP and SPLM already disagree over a number of issues related to the southern Sudan referendum: (a) whether there should be separate laws for the southern Sudan and Abyei referenda or just one - NCP wants one law, the SPLM wants to see two separate laws; (b) composition of the Referendum Commission - NCP wants a North/South balance, SPLM wants the Commission to be composed of a majority of Southerners; (c) Referendum Commission Headquarters - NCP would like to see it in Khartoum, SPLM would like for it to be in Juba, and (d) southern Sudan voter eligibility requirement - the NCP would like the requirement to be more broad than what the SPLM is proposing. UNMIS has asked the MFA for a written request from the GNU for UN assistance on the referendum as soon as possible.

#### AND WHAT ABOUT THE POST-ICC ENVIRONMENT?

111. (SBU) In his election update (a regular part of every EAG), Kennedy did not once mention the potential effects of the post-ICC environment on elections (ref B). UNDP only glossed over the issue (38 minutes into the joint UNMIS-UNDP briefing) by stating that its request for proposals for an elections media implementing partner was on hold due to the uncertainty over whether an awardee would be able to register in northern Sudan as a result of the NCP's March 4 expulsion of 13 INGOs. During the question and answer session, poloff questioned Kennedy on whether the UN was concerned about a potential snap election (particularly for the GNU Presidency), how the UN would respond in such an event, and whether the UN had

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developed "red lines" for moving forward with its electoral assistance. Kennedy was dismissive of the question and stated that UNMIS will move forward with assistance until the UNSC tells it not to. [Note: UNMIS has a UNSC mandate to provide technical assistance to the GNU and GoSS to carry out nation-wide elections. End note.] He did not comment on the possibility of a snap presidential election. He did affirm that per the electoral law, if there is a sole candidate for the GNU Presidency, he/she would be proclaimed President without a vote. A UNDP official responded that in the event of a snap election (i.e. - before the end of July), "we would try our best to see what we can deliver." USAIDoff expressed the USG's concern about the March 4 INGO expulsions and what a post-ICC environment may mean for USG elections programming in the north. Neither UNMIS nor UNDP responded to the concern. Other donors also were silent, leading Kennedy to say, "it is unusually quiet in here for such a big group today." After the meeting, UK officials approached Emboffs to register their own concern about potential snap elections, the INGO expulsions, and what all of it means for donor electoral assistance. They agreed to call an electoral donor group meeting (more intimate than the EAG) to discuss these very issues. [Note: Outcomes of the March 24 meeting to be reported septel. End note.]

#### COMMENT

112. (SBU) This month's donor electoral meeting can only be described as surreal given that there was no substantial mention by the UN of the ICC arrest warrant, the INGO expulsions, or the possibility of a snap election until USG officials directly raised them. Kennedy made it quite clear that the UNSC would call the shots on the fate of UN electoral assistance, and reiterated more than once that until UNMIS is told otherwise, it will continue to support the electoral

process in Sudan. Other donors (excluding the UK) seem perplexed, yet much less concerned, by what the post-ICC environment might mean for elections and donor electoral assistance in Sudan. This is partly because they do not have nearly as much at stake in the way of electoral assistance, nor have many of them felt the direct effect of partner expulsions. With the current toxic environment for aid and development work in northern Sudan, the USG will have to make some tough decisions on what it means for upcoming USG electoral assistance in the North. Implementing partners that are brought in to support the electoral process in Sudan will almost certainly face unbearable scrutiny and limitations by the NCP and the state's security apparatus. End Comment.

FERNANDEZ